Legal Rights of Persons Without Proper Documentation

Important

- This is not a substitute for legal advice.
- Talk to a lawyer about your specific situation.
- Do not go to a notario. They are not lawyers in the United States.

Particularly Likely to Be Deported

- Any undocumented person who has a previous order of deportation.
- Any undocumented person who is working without work authorization when ICE “raids” the workplace.
- Any undocumented person who commits certain types of crimes.
- Any person with legal status (not citizenship) who commits certain types of crimes.

What Should I Do?

- Develop plan for you and your family
- Gather important documents
- Have important phone numbers readily available:
  - Your attorney's number or number for attorney referral service
  - Number for your country's consulate
  - Numbers for your spouse's work, children's school or daycare, your church, your neighbors…

Important Documents

- Birth certificates for you and your children
- Passports
- Copies of photo identification cards and work permits
- Bank records
- Mortgage or lease records
- Any papers from Immigration

Questions to Consider in Advance

- What will your family do if you are deported?
- What about your children?
- What will happen to any property that you own?
- Do you have an immigration case? If so, what do you need to do for your case?

Children

- ICE does not have the right to “take your children away” from you.
- You should decide in advance whether your children stay in the U.S. or go with you, if you are deported.
- Consider child custody ramifications if you are estranged from your child’s other parent.

Property That You Own

- Do you own a car? A House? Will you need to sell these assets? Will you need to access bank accounts?

- If so, you may wish to designate someone to act as your power of attorney.

Immigration Case Pending

- Assemble all of your important and immigration related documents.
- Contact your attorney and get these documents to your attorney, if you have one.
- Alternatively, give your important documents to a family member or a friend, whom you trust and who has legal status in the U.S. Ask this person to get in touch with an immigration attorney if you end up in detention.

What Rights Do I Have If I Am Approached or Picked Up By ICE?

- You have the right to remain silent.
- You have the right to speak with an attorney.
- You may exercise your rights at any time.
- You have the right to NOT be threatened, interrogated, or verbally/physically abused.
- You have the right to NOT sign any documents.

Who Can Help Me If I Am Picked Up By ICE or Law Enforcement?

- You have the right to visits and contacts from your country's consular officials.
- An attorney may also be able to assist you

What If My Spouse Or Child Is Not Picked Up By ICE With Me?

- You do not have to tell ICE about them.
- Do not volunteer information to ICE.
- The only information you are required to share is your name.
- You may ask to speak with an attorney before answering any questions.
- If you choose to answer a question, you should always tell the truth.

What If ICE Agents Come to My House?

- You DO NOT have to permit ICE agents or the police to enter your home, unless:
  - They have a search warrant signed by a Judge; or
  - You or someone in your household have/has a prior deportation order.

- Always act calm – do not run from ICE! If you run, they will think you have something to hide.

What If ICE Agents Come to My Job?

- Always act calm and polite – do not run from ICE!
- They can only arrest you if they have "probable cause" to believe that an immigration violation has been committed.
- You must, if asked, tell any law enforcement official your name.
- You might wish for your boss to have your family's contact information in case you are arrested by ICE.

What If ICE Asks To See My Papers and My Papers Are Fake?

- Never give or show false papers to ICE.
- You have the right to NOT tell ICE your country of origin.
- You MUST show ICE your legal papers which you are required to have in your possession.

Do I Have the Right to a Phone Call While in ICE Detention?

- You have the right to one phone call.

May People Visit Me While I Am in Detention?

- Generally, only a family member or an attorney may visit.

- Any visitor should have legal status in the U.S.
  - ICE has the right to request to see the photo ID of anyone who visits a detainee.
  - If a visitor to the detainee is undocumented, ICE has the right to detain the visitor.

What If I Am Arrested By the Police?

- The police may contact ICE.
- The police may check to see if you have a previous criminal history or any previous deportation orders.
- If you have a previous deportation order, the police may arrest you and may place an immigration "detainer" on you.
- If there is any "detainer" on you, ICE may deport you after you have served your criminal sentence.

If ICE Puts Me in Jail, Do I Have the Right to Get Out on Bond?

- For some, there is a possibility of being released on bond or a conditional parole.
  - Bonds are $1,500.00 or more.
- People with criminal histories or who are deemed to be national security threats may be held without the possibility of a bond.
- If you have a prior deportation order ICE is unlikely to grant release on bond.

If ICE Returns Me to My Country, Can I Come Back Later?

- Generally, if you are deported you are subject to a 10 year bar.
  - Some are subject to permanent bar, and
  - Some may return before 10 years if eligible for a special waiver.
- Be sure to keep a copy of ALL papers you have signed for ICE.
- These papers should be given to an immigration attorney.

Is there anything else I should know?

- DO NOT ever present false documents.
- DO NOT LIE.
- DO NOT ever claim to be a U.S. Citizen if you are not.
- ALWAYS be calm when confronted by ICE – Do not run away.